

FREDERICK COUNTY PLANNING COMMISSION

September 13, 2013

TITLE: Days Range Preliminary Subdivision Plan

FILE NUMBER: S-1113, APFO #12997 (AP #12995 & FRO #13723)

REQUEST: Preliminary Plan Approval

The Applicant is requesting Preliminary Subdivision Plan and Adequate Public Facilities approval for 45 single family residential lots, on a 123.54-acre site.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the south side of Windsor Road, and Oriole Drive extended.

TAX MAP/PARCEL: Tax Map 97 & 106, Parcels 1 & 114

COMP. PLAN: Rural Residential

ZONING: R-1 Residential

PLANNING REGION: Urbana

WATER/SEWER: W-NPS/S-NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Days Range, LLC

OWNER: Days Range, LLC

ENGINEER: Fox & Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit #1- Site Plan Rendering

Exhibit #2- Days Range APFO Letter of Understanding

Exhibit #3- Days Range Panhandle Modification Justification Letter

STAFF REPORT

ISSUE

The Applicant is requesting Preliminary Subdivision Plan and Adequate Public Facilities approval for 45 single family attached dwellings, on a 123.54 -acre site.

BACKGROUND

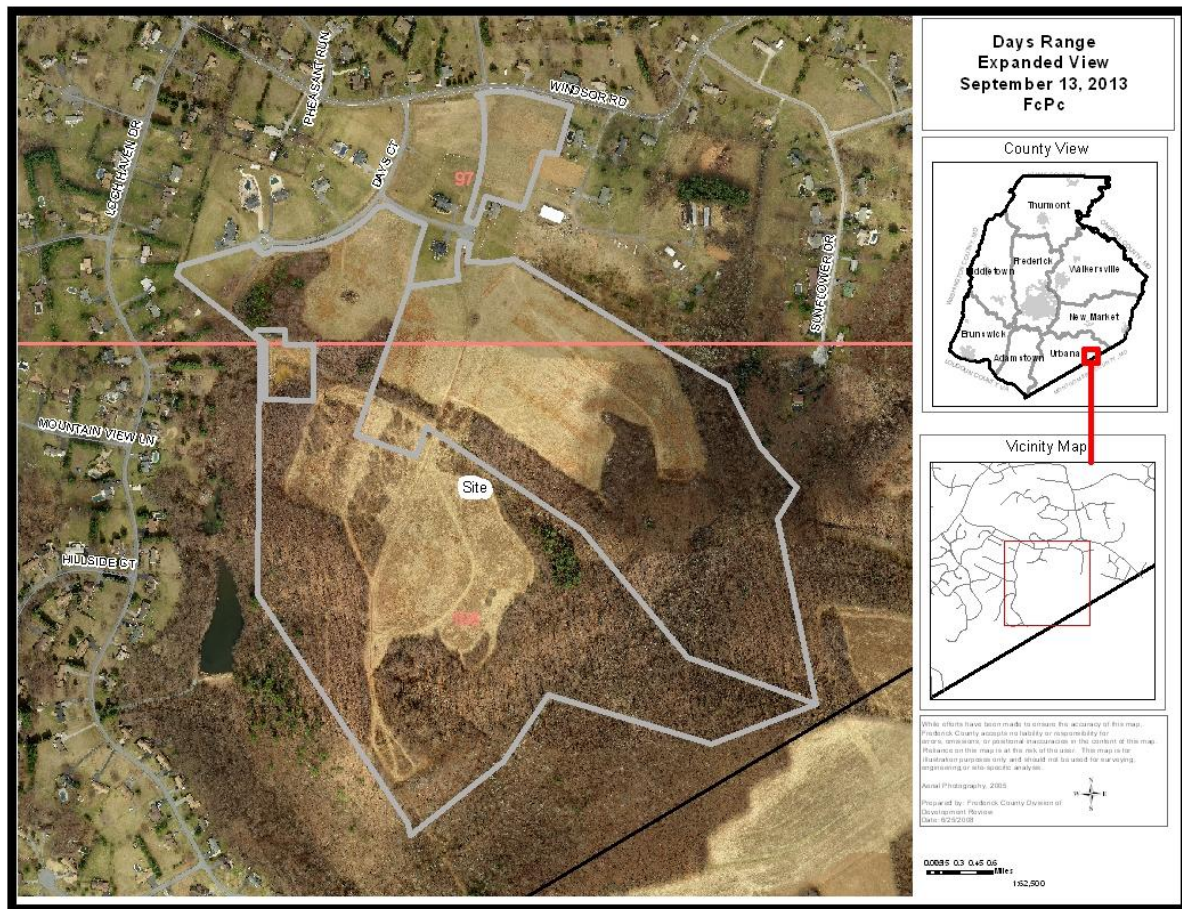
This property has been the subject of several previous subdivision applications.

- August of 1991, the original 148.33 acres was subdivided into Parcel "A" 77.78 acres and Parcel "B" 70.55 acres.
- In February 2004, Farm Lot 1-R was recorded as the result of a 15.1 acre Remainder being subdivided off of the original 70.5 acre Parcel "B".
- In June of 2004, Lots 1-5 from Parcel "A", Outlot "B" were subdivided and recorded.
- September 2005, Lots 1-4 and Open Space parcels were subdivided off of Farm Lot 1-R.

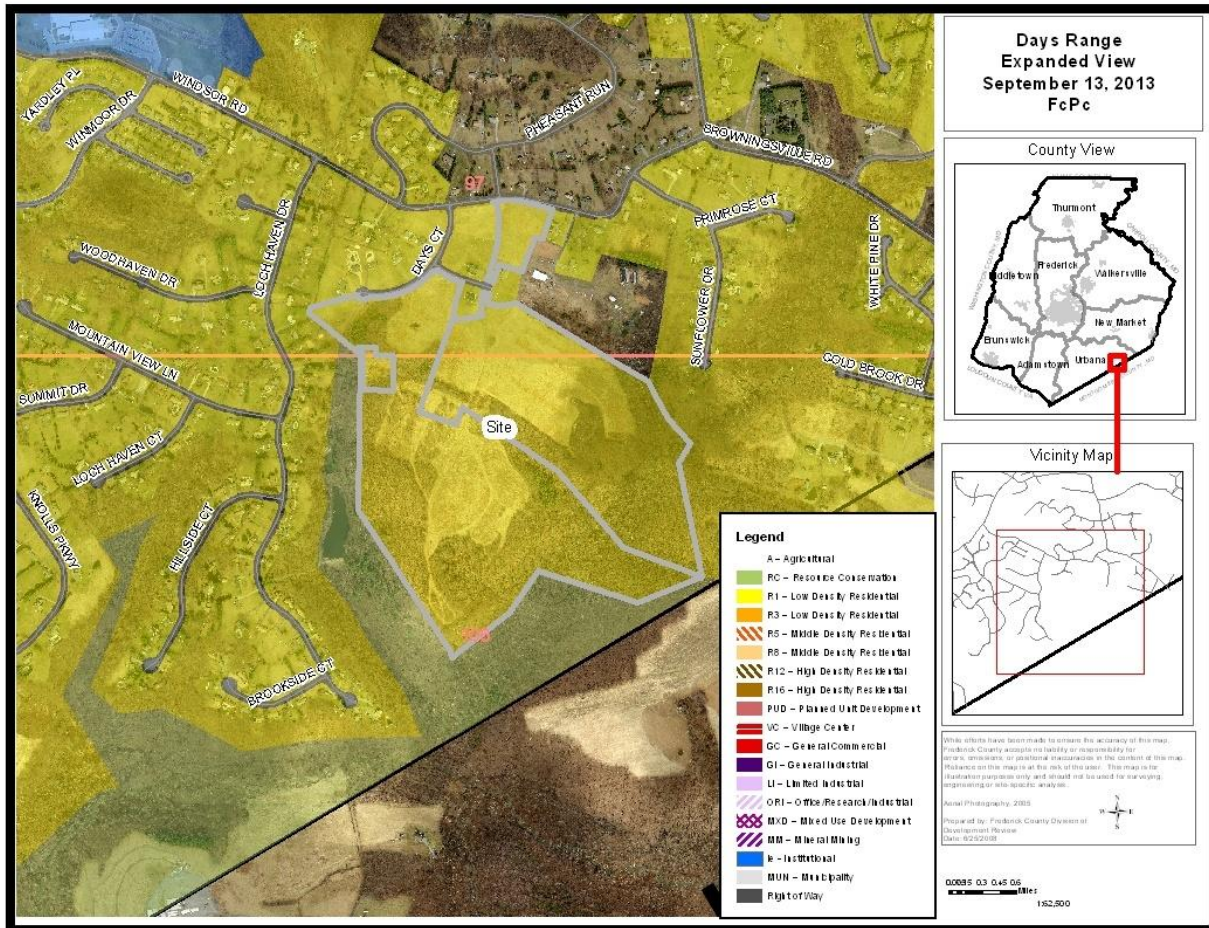
Existing Site Characteristics

The site consists of open agricultural ground, with forested corridors along the southern and eastern boundaries. Stream valleys cross the southern portion of the site. The site adjoins the Days Range East residential subdivision to the east, located off of Drummers Pass, and Days Range South residential subdivision to the north of Days Range Court. See Graphic #1.

Graphic #1: Site Aerial



Graphic #2: Zoning Map



ANALYSIS

A. SUBDIVISION REGULATION REQUIREMENTS

Review and approval of the proposed Preliminary Plan is subject to subdivision regulations as provided in §1-16 of the Frederick County Code.

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements for the R-1 Zoning District. See Graphic #2.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions. The stream valleys and waterbody buffers will be maintained in existing forest. The existing forest, as well as new forest plantings, will provide additional buffers along these sensitive areas.

The street network and lot layout is designed to avoid stream crossings and provide increased connectivity with the existing subdivisions. A proposed street connection with the adjoining Days Range East and South subdivision, via Drummers Pass, facilitates pedestrian and vehicular connectivity. To achieve this connection, the existing Drummers Pass cul-de-sac will be converted into a perpendicular intersection with the proposed Desmond Place.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas. (b) If residential lots are proposed within "wet soils" then a geotechnical report is required to be submitted by a professional engineer registered in the State of Maryland. A note shall be placed on the plan that all construction shall be in conformance with the geotechnical report.*

Wet soils are located within the stream valleys that run through the southern, central, and eastern portions of the site. Most of these wet soils areas fall within the existing or proposed Forest Resource Ordinance easements.

A finger of wet soils runs from the western property boundary through the existing Parcel A as well as through the existing FRO easement area for the Days Range South subdivision. It does not appear that any of the proposed lots are affected by this band of wet soils. On the eastern side of the site there is another small finger of wet soils that runs behind proposed Lots 41-44, however this area of wet soils does not impact the buildable area of these lots. Lots 34 and 35 are slightly impacted by wet soils, although this area is where the septic fields are presently proposed. If the housing sites are impacted by the existing wet soils then a geotechnical report will have to be submitted at the building permit stage to ensure that proper construction methods are proposed in order to reduce any negative impacts of the wet soils on the proposed homes.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

The lots will access a series of internal subdivision streets that provide access to the lots via Windsor Road. Windsor Road is a 20 foot wide paved County road. All of the proposed internal subdivision streets will meet the minimum 20 foot wide paved road surface requirement. This subdivision will also connect to Drummers Pass and Days Court. Both roads are 20 foot wide paved County roads that provide access to the adjoining Days Range East and South subdivisions. Lot access will meet the Subdivision Regulations' road access requirements.

- 5. Other Street Requirements. Development on Dead End Streets §1-16-236 (C) & (K):**

(C) *Rights-of-way for proposed streets shall be extended to the boundary lines of the proposed subdivision so that a connection can be made to all adjacent properties unless such extension is not feasible because of topography or other physical conditions, or unless, in the determination of the Planning Commission, such extension is not necessary or desirable for the coordination with existing streets or the most advantageous development of adjacent tracts. In any event, no subdivision shall be designed so as to create or perpetuate the landlocking of adjacent undeveloped land.*

This subdivision includes proposed connections to Drummers Pass and Days Court; both roads provide access to the adjoining Days Range East and South subdivisions. There are no further connections to the south or the east due to steep grades and existing and proposed FRO easements. The property to the west is fully developed with the existing Loch Haven residential subdivision. Oriole Drive to the north within the existing Meadowbrook subdivision will be extended into the Days Range site.

(K) *Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:*

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels...

The proposed circulation network is comprised of a cul-de-sac and loop system that has been designed to work within the environmental and topographic site constraints. Desmond Place, the one cul-de-sac proposed within the project, emanates from Windsor Road and serves the eastern portion of the development. This cul-de-sac is 450 feet long from the point where it adjoins Brubeck Terrace and this portion will serve 11 lots. However, Desmond Place originates at a connection with Windsor Road and is approximately 1550 feet long in total length and serves a total of 15 lots. The western portion of the project is served by the loop system of Brubeck Terrace. This roadway services the western portion of the site and the remaining lots, with the exception of Lots 3, 4, 5, 6, & 7 which gain access from the existing Days Court. The Brubeck Terrace loop system adjoins the proposed roadway network which allows for two access points to Winsor Road via Drummers Pass and the extension of Desmond Place.

Staff worked with the Applicant to achieve a looped design that takes advantage of existing road networks to create connectivity where possible. However, the extension and loop of Brubeck Terrace beyond Drummers Pass does create a dead end street system requiring Planning Commission approval.

6. Lot Size and Shape. §1-16-219: *The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.*

The proposed development is located on property zoned R-1 residential. As provided in Section 1-19-6.100 of the Zoning Ordinance, the minimum design requirements in the R-1 residential zoning district are: 40,000 square foot minimum lot size, 100 foot minimum lot width, 40 foot front setback, 30 foot rear yard setback, and 10 foot side yard setback, 30 foot maximum structure height for single family residential development. See Graphic #2.

All of the proposed lots meet the minimum 40,000 square foot (0.92 acres) lot size requirement. Lots range in size from 1.0 acres up to 2.0 acres, with an average lot size of 55,473 square feet, or 1.2 acres. The required front, rear, and side setbacks are shown on the plan and meet the requirements of the Zoning Ordinance.

7. Panhandle Lots §1-16-219 (C)(2): *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Six panhandle lots are proposed in this subdivision:

- Lots 4-5, located off of Days Court. These lots will access Days Court via private drives.
- Lot 20, located at on the southern portion of Brubeck Terrace. Although the lot has access to Brubeck Terrace, the lot width is constrained by adjacent steep slopes to the east.
- Lots 39-41, located at the terminus of Desmond Place. Lot 39 will access Desmond Place via a private driveway. Lots 40 and 41 will access Desmond Place via a use-in-common driveway to be shared and maintained by the lot owners.
- A note will be added to the final subdivision plat, indicating that the property owners will be aware of their shared access and maintenance obligations.

In order for Planning Commission to approve these panhandle lots, it must find that the lots meet “excellence of design based on the spatial relationship of the panhandle lot to other lots and the public road.” The Applicant has submitted a panhandle modification request for the six panhandle lots, see Exhibit #3. Staff supports this panhandle modification request due to natural features constraints and suitable septic locations.

8 Water and Sewer Facilities. Public Facilities §1-16-12 (C): *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service (NPS) and must utilize private septic areas and wells. Per §1-16-12 (C)(2), all wells and septic areas must be approved by the Health Department prior to final plat approval and lot recordation.

Subdivision Regulation Requirements Findings/Conclusions

The project will meet all Subdivision Regulation requirements once all agency comments and conditions are complied with and the Planning Commission approves the panhandle lots and the street system as required in Sections 1-16-219.C.2 and 1-16-236.

9 OTHER APPLICABLE REGULATIONS

Stormwater Management – Chapter 1-15.2: Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A SWM Concept Plan must be submitted and approved prior to final Preliminary Plan approval.

APFO – Chapter 1-20: This subdivision is subject to meeting APFO requirements for schools and roads.

The following areas are addressed in the APFO Letter of Understanding (LOU) to be signed by the Applicant and the Planning Commission as a condition of approval of this preliminary plan. See attached Exhibit #2.

1. **Schools:** Attendance Areas: Kemptown ES, Windsor Knolls MS, Urbana HS. The Project is projected to generate 13 elementary school students, 8 middle school students and 10 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid at plat recordation** based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.
2. **Roads:** The Project will generate 33 am and 41 pm new weekday peak hour trips, which does not exceed the requisite 50 peak hour trip threshold required for APFO testing, but taking into account previous subdivisions of this same project does exceed the 50 trip threshold in the pm peak hour . As a result, a review of Traffic Impact Analyses on file was accomplished to address APFO requirements and propose mitigation for failing facilities. In addition, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).
 - a) MD 80/Ijamsville Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$451.
 - b) MD 80/MD 75 Westbound right turn lane – the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3382 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$3,210.
 - c) MD 355/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata share of this road improvement is \$1,120.
 - d) MD 355/Fire Tower Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3288 to provide a roundabout at this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$3,017.
 - e) MD 75 Relocated: South of CSX to Baldwin Road - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3891 for the realignment of MD 75. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$103,050
 - f) MD 75 Relocated: South of MD 80 - the Applicant shall contribute the appropriate pro-rata share to a new escrow account for the realignment of MD 75 just south of MD 80. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$22,267

Therefore, prior to plat recordation and in accordance with the APFO Letter of Understanding (LOU), the Developer will pay \$133,115 to the escrow accounts for these Road Improvements. Should this payment not be made within one year of the execution of the LOU, the County reserves the right to adjust this amount, based on an engineering cost index.

3. **Public Water & Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for water and sewer.

Period of Validity: The APFO approval is valid for three (3) years from the date of Planning Commission approval; therefore, the APFO approval expires on September 13, 2016.

Forest Resource Ordinance – Chapter 1-21: A Preliminary/Final FRO plan has been reviewed and conditionally approved. This portion of the development contains 40.20 acres of forest. The Applicant proposes to meet the FRO requirements by protecting 21.40 acres of existing forest. A portion of this parcel was previously developed, resulting in an existing 1.90 acres of forest easement that has already been recorded. The Preliminary/Final FRO plan must be approved prior to Preliminary subdivision plan final approval. FRO mitigation must be provided prior to lot recordation, grading permit, or building permits, whichever is applied for first.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditional Approval
<i>Development Review Planning:</i>	Hold. Address all agency comments as the plan proceeds through to completion.
<i>State Highway Administration (SHA):</i>	N/A
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	N/A
<i>Health Dept.</i>	Conditional Approval
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-1113, AP 12995), including approval of the APFO (AP 12997) and approval of the use of panhandle lot design in a major subdivision, Staff recommends that the following items be added as conditions to the approval:

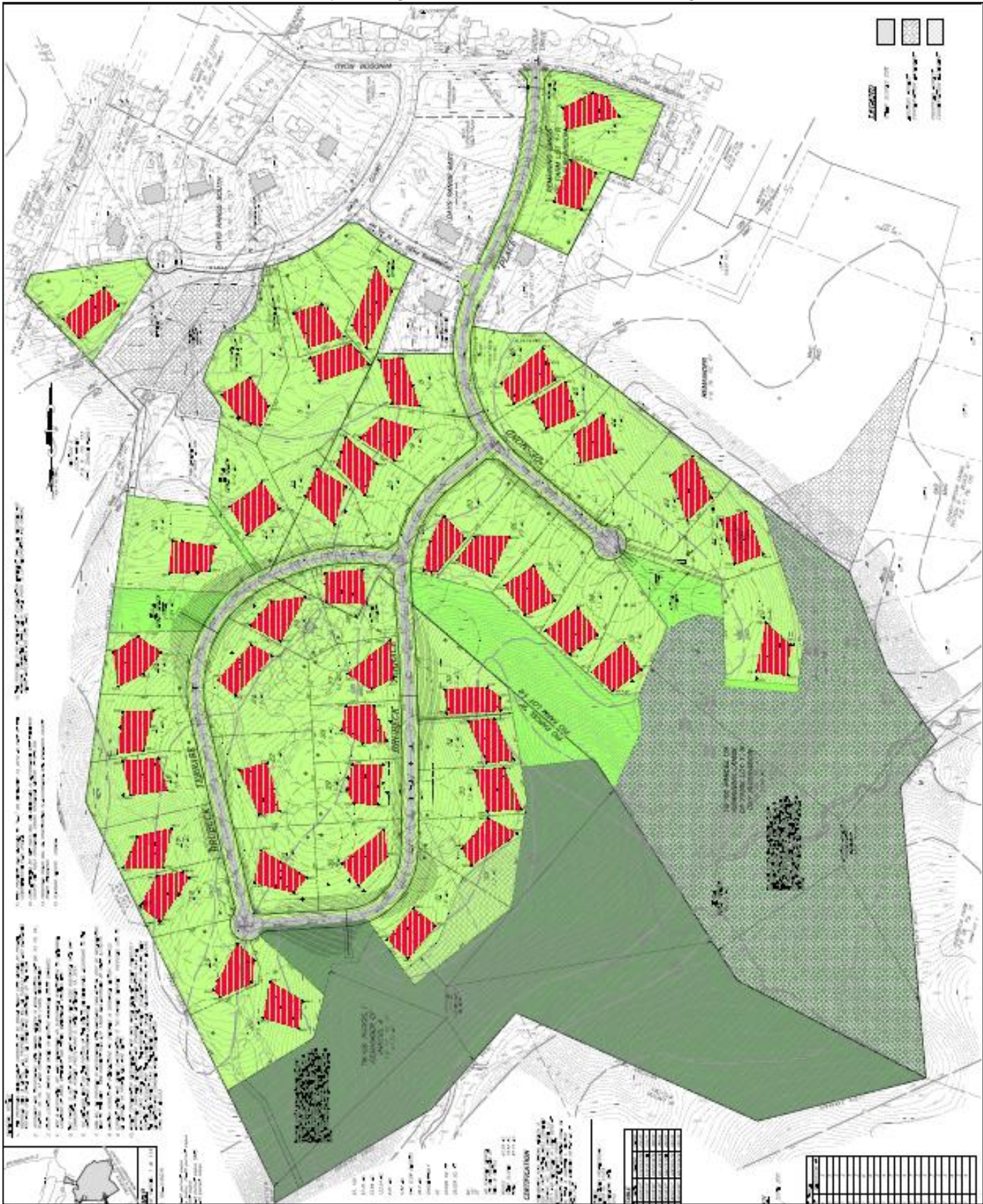
1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Planning Commission approval of the six panhandle lots and the proposed street system in accordance with subdivision regulations.
3. The purchasers of the panhandle lots are to be notified of the responsibilities of maintaining the panhandle area and common driveways.
4. The Preliminary/Final FRO plan must be approved prior to final Preliminary Subdivision plan approval. FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.
5. The Preliminary Plan approval is valid for five (5) years from the date of FcPc approval. Therefore, the Preliminary Plan approval expires on September 13, 2018.
6. The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on September 13, 2016.
7. All common driveways must be constructed prior to lot recordation.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE S-1113 (AP 12995) with the conditions and modification** as listed in the staff report for the proposed preliminary plan, approval of the APFO (AP 12997), based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit #1: Days Range 45-Lot Subdivision Rendering





**FREDERICK COUNTY GOVERNMENT
DIVISION OF COMMUNITY DEVELOPMENT**

Eric E. Soter, Division Director

*Planning & Development Review Department
Jim Gugel, Planning Director*

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Frederick, Maryland 21701

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David P. Gray
Kirby Delauter

Lori L. Depies, CPA
County Manager

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Days Range

Preliminary Plat #S-1113 AP #12997

In General: The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Days Range, LLC ("Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Days Range Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 148.3 +/- acre parcel of land, which is zoned Low Density Residential (R-1) and located on the north side of the Montgomery County Line with access off and just south of Windsor Road. This APFO approval will be effective for development of 45 new single family detached homes, which is shown on the preliminary plat for the above-referenced Project, which was conditionally approved by the Commission on September 13, 2013.

Schools: The Project is projected to generate 13 elementary school students, 8 middle school students and 11 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid at plat recordation based on the specific fees**

required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

Water and Sewer: The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan* and is therefore exempt from APFO testing for water and sewer.

Road Improvements: The Project will generate 33 am and 41 pm new weekday peak hour trips, which does not exceed the requisite 50 peak hour trip threshold required for APFO testing, but taking into account previous subdivisions of this same project does exceed the 50 trip threshold in the pm peak hour. As a result, a review of Traffic Impact Analyses on file was accomplished to address APFO requirements and propose mitigation for failing facilities. In addition, the Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H).

1. MD 80/Ijamsville Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$451.
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6. MD 75 Relocated: South of MD 80 - the Applicant shall contribute the appropriate pro-rata share to a new escrow account for the realignment of MD 75 just south of MD 80. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$22,267

Therefore, prior to plat recordation, the Developer hereby agrees to pay \$133,115 to the escrow accounts for these Road Improvements. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Page 2
Days Range LOU

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on September 13, 2016.

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

DEVELOPER: Days Range, LLC
by Pleasants Development, Inc., Manager

By: _____

William D. Pleasants, Jr., President

Date: _____

08/29/13

FREDERICK COUNTY PLANNING COMMISSION:

By: _____

Dwaine E. Robbins, Chair or William G. Hall, Secretary

Date: _____

ATTEST:

By: _____

Gary Hessong, Director, Permits & Inspections

Date: _____

Planner's Initials / Date _____

County Attorney's Office Initials / Date _____
(Approved as to legal form)



FOX & ASSOCIATES, INC.

SUITE G

82 WORMAN'S MILL COURT

FREDERICK, MARYLAND 21701

PHONE: (301) 895-0880 • FAX: (301) 293-8009

E-MAIL: foxfrederick@foxassociatesinc.com

ENGINEERS•SURVEYORS•PLANNERS

August 27, 2013

Mr. Tolson DeSa, Principal Planner II
Frederick County Division of Community Development
30 N. Market Street
Frederick, Maryland 21701

Re: Days Range Subdivision Plan, File #S1113, A/P 12995
Panhandle Modification Request

Dear Tolson,

On behalf of the owner, Days Range, LLC, we are hereby requesting a modification of the Frederick County Subdivision Regulations Section 1-16-219.(C)(2) Lot Size and Shape for proposed lots 4, 5, 39, 40 & 41. The lot configuration for these lots were established based upon the existing topography, existing forest conservation easements, location of stormwater management facilities due to topography and location of suitable septic percolation fields. Of these lots, only lots 40 and 41 will have a shared common driveway, all other lots will be served by individual driveways. As a condition of the modification request, we are willing to provide a note on the final subdivision plat notifying the future lot owners of the shared use and maintenance obligation associated with the common driveway.

Thank you for consideration of our request.

Sincerely,
Fox & Associates, Inc.

A handwritten signature in black ink that reads 'John Mazelon'.

John Mazelon, VP
Principal Project Manager

Cc: Jonathan Soule – Days Range, LLC

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